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Attorneys for Defendant ANWAR SOLIMAN

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION

In re

DEL TACO, INC., a California
corporation; dba DEL TACO and
NAUGLES; fka DTI ACQUISITION
CORP. and AWR II, INC.,

Reorganized Debtor.

DEL TACO LLC, a California limited
liability company,

Plaintiff,

vs.

ANWAR SOLIMAN, an individual,

Defendant.

FILED & ENTERED

SEP 18 2008

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY daniels DEPUTY CLERK

2008 SEP - 1 AM 10:33
CLERK U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature]

SACV08-1090 R

Case No. 8:93-13261-ES

Chapter 11

Adv. Proc. No. 8:07-01273-ES

**JUDGMENT AND ORDER GRANTING
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT AND DENYING
PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT**

Hearing:

Date: July 21, 2008

Time: 2:30 p.m.

Courtroom: 5A

1 The motions of Defendant Anwar Soliman ("Soliman") and Plaintiff Del Taco,
2 LLC for summary judgment of the claims alleged by Del Taco, LLC came on for hearing
3 before this Court on July 15, 2008, before the Honorable Erithe A. Smith, U.S.
4 Bankruptcy Judge. After considering the parties' moving and opposition papers,
5 arguments of counsel and all other matters presented to the Court, the Court finds that
6 there is no genuine issue as to any material fact, and Soliman is entitled to judgment as a
7 matter of law.

8 **IT IS THEREFORE ORDERED** that Anwar Soliman's motion for summary
9 judgment is GRANTED.

10 **IT IS FURTHER ORDERED** that Plaintiff Del Taco, LLC's Motion for
11 Summary Judgment is DENIED; and

12 **IT IS FURTHER ORDERED** that JUDGMENT in this action in favor of Soliman
13 shall issue hereby as follows:

- 14 1. The Complaint filed by Plaintiff on July 9, 2007 is dismissed in its entirety with
15 prejudice;
- 16 2. Anwar Soliman is entitled to proceed immediately against Del Taco, LLC in
17 Orange County Superior Court Case No. 07-CC-03162.

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1 3. Anwar Soliman may seek to recover his costs of suit pursuant to Federal Rule
2 of Bankruptcy Procedure 7054(b) by complying with the procedure set forth in Local
3 Bankruptcy Rule 7054-1.

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7 Respectfully submitted,

8 **WINTHROP COUCHOT**
9 **PROFESSIONAL CORPORATION**

Marc J. Winthrop, Esq.

10 Robert Opera, Esq.

11 **SAYLES WERBNER**
12 **PROFESSIONAL CORPORATION**

13 By: /s/ Joel Israel

Joel Israel, Esq.

14 Mark S. Werbner, Esq.

15 Attorneys for Defendant, Anwar Soliman

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24 DATED: September 18, 2008



United States Bankruptcy Judge

CERTIFICATE OF SERVICE

I, Viann Corbin, declare as follows:

I am employed in the County of Orange, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 660 Newport Center Drive, Fourth Floor, Newport Beach, California 92660, in said County and State.

On August 7, 2008, I served the following document: **JUDGMENT AND ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT** on each of the interested parties stated below, as follows:

<p><u>Via e-mail and first class mail</u> <u>Debtor's Counsel</u> apines@manatt.com Adam Pines, Esq. Manatt, Phelps & Phillips LLP 11355 West Olympic Boulevard Los Angeles, CA 90064-1614</p>	<p><u>Via first class mail</u> U.S. Trustee's Office 411 West Fourth Street, Suite 9041 Santa Ana, CA 92701-8000</p>
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by the following means of service:

- ☒ **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. Under that practice it would be deposited with the U.S. Postal Service on that same date with postage thereon fully prepaid at Newport Beach, California in the ordinary course of business I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☒ **BY ELECTRONIC MAIL:** On the date set forth above, from Newport Beach, California, I caused each such document to be transmitted electronically to the parties at the e-mail address indicated. To the best of my knowledge, the transmission was reported as complete, and no error was reported that the electronic transmission was not completed. A return receipt was requested at the time of the transmission of each such document and I did not receive a notice of failure of receipt of each such document.
- ☒ I am employed in the office of Winthrop Couchot Professional Corporation; Marc J. Winthrop is a member of the bar of this court.
- ☒ **(FEDERAL)** I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 7, 2008 at Newport Beach, California.

/s/ Viann Corbin,
Viann Corbin

/s/ pj
Initials

SERVICE LIST FOR ENTERED ORDER

SERVED ELECTRONICALLY	SERVED BY U.S. MAIL
apines@manatt.com Adam Pines, Esq. Manatt, Phelps & Phillips LLP 11355 West Olympic Boulevard Los Angeles, CA 90064-1614	Office of the United States Trustee 411 West Fourth St., #9041 Santa Ana, CA 92701-8000
pj@winthropcouchot.com Winthrop Couchot PC PJ Marksbury, Legal Assistant 660 Newport Center Dr., 4th Fl. Newport Beach, CA 92660	jisrael@swtriallaw.com Sayles Werbner Joel Israel, Esq. 1201 Elm St 44th Fl Dallas, TX 75270